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UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
TOUGH CITY, INC. and SAMIR RAJPUT,

Civil Action 07 Civ. 06626 (NRB)

Plaintiffs,

v.

XENS, INC.,

AFFIDAVIT IN SUPPORT

Defendant.
-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MOHAMMED RAJPUT, being duly sworn, deposes and says:

1. I am the Chief Operating Officer (COO) of Tough City, Inc. (hereinafter "Tough City"), the plaintiff in the above-captioned action, and am fully familiar with all of the facts which are set forth herein, both from my own personal knowledge, as well as the books and records of the corporation.

2. I submit this affidavit in support of plaintiffs' Motion for a Default Judgment, and provide the following information to the Court to provide guidance as to the amount of the damages to be assessed against the defendant, Xens, Inc.

3. During the period in question, I was in contact with the defendant, Xens, Inc. (hereinafter "Xens"), through their President, Mr. Robert Lee. The following information is from personal conversations with Mr. Lee, as well as documents produced by Xens and obtained by Tough City relating to their sales of the sneakers in question with the registered trademark "Tough City."

4. First, as to the number of pairs of sneakers sold by Xens containing the Tough City mark, in March, 2007, Mr. Lee informed me that he had ordered three large containers of sneakers with the mark "Tough City." Each of the three containers contained approximately 6,000 pairs of sneakers, which is a standard amount for these containers. Mr. Lee informed me that he had sold his inventory of these sneakers, totaling 18,000 pairs (6,000 times 3 containers).

5. Additionally, in another conversation with Mr. Lee on or about June 7, 2007, he informed me that he had an additional inventory of 14,000 Tough City sneakers. These were not the sneakers referred to in Paragraph 4, but a new, second order. Therefore, I believe that the total amount of "Tough City" sneakers sold by Xens to be 32,000 pairs (18,000 plus 14,000).

6. Xens is still selling these sneakers, containing the registered trademark "Tough City". In March of this year, I personally attended a trade show in Atlanta, Georgia, and observed that Xens had a display where they were marketing and selling the unauthorized goods, with the registered trademark "Tough City."

7. As to the profit margin of these sneakers, I enclose as exhibits copies of spreadsheets from Xens which show the price of each pair of sneakers sold, which range from \$37.50 to \$50.00 per pair. See, Exhibit "A", price column. The average price is approximately \$40.00 per pair.

8. The profit column on the same sheet (Exhibit "A") shows the amount of profit per pair to be paid (although no profits were ever paid to Tough City by Xens). In addition, Xens was to take a profit of \$10.00 per pair in addition to the sum listed in the profit column. The average profit on each pair of shoes was approximately \$28.00, which is the sum of the average profit of \$18.00 as listed on the Xens sheet, plus the \$10.00 per pair profit to be taken by Xens. This results in a seventy percent (70%) profit on each pair sold (\$28.00 divided by \$40.00).

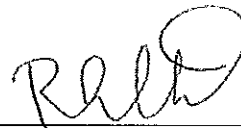
9. Annexed as Exhibit "B" is another sales summary sheet produced by Xens, showing sales, profit, and margin of profit. The average profit margin on this sheet shows an average profit margin of 72.63% on each pair of sneakers sold, which is very close to the 70% figure as computed in Paragraph 8, above.

10. Based upon this information, which was obtained from Xens, I believe that the damages for lost profits should be computed as follows: 32,000 pairs of Tough City sneakers sold by Xens with the unauthorized trademark, times the average profit on each pair, approximately \$28.00, which would total \$896,000.00 in lost profits. Assuming a 70% profit margin, and a \$40.00 average cost per pair, this would result in the same sum (32,000 times 40 times 70%, which totals \$896,000.00).

11. These computations are based on the information provided by Xens. I do not have any further documentation, as Xens never paid any profits to Tough City, and refused to provide summary sheets other than the ones annexed hereto as exhibits. I believe that the information provided should be sufficient to award lost profits to Tough City for the unauthorized sales by Xens of sneakers with the registered trademark "Tough City." It is also my opinion that the retail prices charged, as well as the profit margins as shown on the exhibits, are well within the

standard industry prices for these type of products, based upon my experience in the industry. Copies of the "Tough City" trademark registration, as well as photographs of the infringing goods, have already been provided to the Court.

12. Therefore, I request that the Court enter a judgment in the amount of \$896,000.00 against Xens, Inc., representing the amount of profits made by Xens by its selling sneakers with the unauthorized mark "Tough City."



MOHAMMED RAJPUT

Sworn to before me this
5 day of July, 2008

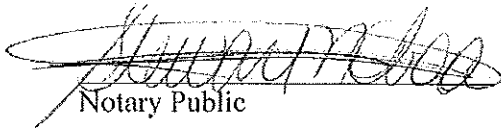
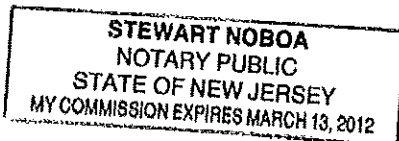

Notary Public

EXHIBIT A

June 1st

CUSTOMER NAME	PRE BAL	SALES	FREIGHT	COLLECT	RETURN	END. BAL	PAIRS	PRICE	POFIT	4 TC
TRENDSETTERS	-60					-60				
3-D FASHIONS		540.00	46.00			586				
ARS FASHION INC.	1550					1550				
AVANTE	3039			1,013.00		2026	24	40	16	384
B FRESH	-27					-27				
BALLERS	2065					2065	SUPREM NEED COLLECT			
BENZERS FASHION	1160					1160				
BLACK GOLD UNIQUE BOUTIQ	580			580.00		0	12	45	21	252
CHARLOTTEVILLE PLAYER	1154					1154				
CHECK MY FOOTWORK		480.00	36.00		480.00	36				
D & K FASHIONS	2040			2,040.00		0	48	40	16	768
DA JUMP OFF	0	540.00	46.00	586.00		0	12	45	21	252
DD'S DISCOUNT S	20160					20160				
DIAGA CLOTHING & FOOTWEA		1,080.00	73.00			1153				
DIMENSION FASHION	1172				1,080.00	92				
DOLLARS & CENTS DISTRIBU	1543	1,500.00	96.00	3,141.00		-2	72	40	16	1152
DPZ PROPERTIES, INC.	1476					1476				
EAST TO WEAT	-0.1	960.00	92.00			1051.9				
EASTSIDE CONNECTION		2,016.00	143.00	2,159.00		0				
EZ WEAR PLUS		2,400.00	178.00			2578				
FARTHER & SON CLOTHING		1,080.00	80.00		1,080.00	80	48	42	18	864
FREESTYLE CLOYING	40					40				
FREESTYLE FASHIONS		1,500.00	120.00			1620				
GENTLEMEN QUARTERS	37					37				
GEORGIO'S	3336			3,336.00		0	83	37.5	13.5	1121
GET FITTED PHASE 2	-29					-29				
GOODFELLA WEAR	1550					1550				
GRIMMIE GEARS	2305					2305	SUPREM NEED COLLECT			
HALL OF FAME	75	540.00	46.00	586.00		75	12	45	21	252
HIP HOP CITY	1040			1,040.00		0	24	40	16	384

HIP HOP SOURCE, INC.	1040			1,040.00			0	24	40	16	384
HIPHOP FASHIONS	1758					1,620.00	138				
IDEAL FASHIONS	1550						1550				
IMAX FASHION	80						80				
IN THE HOOD FASHION			540.00	46.00			586				
JEAN PLUS	3485						3485				
JEANS TOWN	517	1,080.00	108.00				1705				
JT FASHION STORE	573						573				
JUBILEE FASHIONS		900.00	52.00	902.00			50				
K&T FASHION	625					516.00	109				
MAAS, INC. DBA ACTIVE SH	2044						2044				
MAX FASHIONS		840.00	80.00			840.00	80				
MEN & WOMEN SHOE BOX LLC	0						0				
METRO SPORTS		1,620.00	108.00				1728				
MOEDICA DBA THA WORKS		540.00	36.00				576				
MORSE ENTERPRISES	1862			1,862.00			0				
NU JERU CLOTHING	586					540.00	46				
NU STYLES		540.00	46.00				586				
ON TIME FASHION	1533			1,533.00			0				
OUTDOOR EMPIRE		1,080.00	73.00				1153				
PHATZ HIP HOP LLC	34			35.00			-1				
PITO N.Y. STYLE	1930	600.00	105.00				2635				
REWIND SPORTS		600.00	46.00				646				
RS CLOTHING	36						36				
sample	0.72						0.72				
SAM'S FASHIONS	1356						1356				
SILVER ROSE FASHION, INC	1737	1,800.00	180.00				3717				
SNEAKER MANIA		1,080.00	90.00	1,170.00			0				
STYLES	-60						-60				
STYLZ	914						914				
SUIT MART	3084						3084				

SUPREM NEED COLLECT

SUPREM NEED COLLECT

35 50 26 936

36 40 16 576

24 45 21 504

SUPREME		0	1,932.00				1932
THE ATHLETE'S FOOT		1139					1139
THE DESIGNER FASHION HOO		574					574
THE SOURCE CLOTHING STOR		40	1,080.00	80.00			1200
TRIPLE A SPORTSWEAR INC.		2063					2063
URBAN SPORTS FHR INC			3,024.00	181.00			3205
URBAN SPORTS FHR INC.			3,024.00	181.00			3205
URBAN VIBES		0	2,880.00	214.00			3094
VALUE DISCOUNT INC		3095					3095
VANCE ATHLETIC SUPPLY		4422					4422
YOUTH OF AMERICA		1532			1,532.00		0
		81755.62	35796.00	2582.00	22555.00	6156.00	91422.62

SUPREM NEED COLLECT

36 40 16 576 8729

NEED COLLECT FROM SUPREM

BALLERS	2065
GEARS	2305
SPORTS	1728
ROSE	3717
SPORTSW	2063
TOTAL	11878

TC TOTAL PROFIT	8728.5
PRE.BAL.	16591
HIPHOP SOURCE	-1040
SUPREM	-1932
CHECK MY NETWORK	-36
DEMENTION FASHION	-92
FARTHER&SONS	-80
HIP HOP FASHION	-138
JUBILLE FASHION	-50
K&T FASHION	-109
MAX FASHIONS	-80
NU JERU CLOTHING	-46
BALANCE	21716.5
PAID ON MAY.7	-5000
NEW BALANCE	16716.5

RETURN
RETURN
RETURN
RETURN
DEPOSIT
RETURN
RETURN
RETURN

EXHIBIT B

Sales Summary By Date

Beginning Date: 11/1/2006
Ending Date: 11/2/2006

Invoice #	Date Sold	Customer	Qty Sold	Sales	Freight	Return	Discount	Total	Profit	Margin
000180	11/20/2006	GEFFITE	12	540.00	40.00	Prepaid		580.00	384.00	71.11%
000184	11/20/2006	PHO	35	1,820.00	300.00	COO		1,920.00	1,152.00	71.11%
000185	11/20/2006	STYLES	12	540.00	40.00	COO		580.00	384.00	71.11%
000186	11/20/2006	SPORTUSA	72	3,600.00	204.00	COO		3,804.00	2,894.00	74.00%
000187	11/20/2006	PLUSNCT	24	1,080.00	87.00	COO		1,167.00	768.00	71.11%
000188	11/20/2006	LEONORS	-12			540.00		-540.00	(384.00)	71.11%
Grand Total:			144	7,380.00	671.00	540.00	0.00	7,511.00	4,998.00	72.63%

Get stated.
PHO
styles
sport usa
plus city
leonor's
freedom

① Missy Youn Doyou have Nov. 19. 06. Sales Reports?

② Print is not working.

inventory

002 1092 prs
003 840 prs
004 96 prs
005 1140 prs
006 312 prs
007 804 prs

Total = 4784 prs

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